

## FREEDOM COURT REPORTING

Page 1

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF TEXAS  
3                   MARSHALL DIVISION  
4     PATTY BEALL, MATTHEW                   )  
5     MAXWELL, DAVID GRAVLEY,               )  
6     TALINA MCELHANY, KELLY                )  
7     HAMPTON, KEVIN TULLOS,                )  
8     CASEY BROWN, JASON BONNER,            )  
9     ANTHONY DODD, ILENE                    )  
10    MEYERS, TOM O'HAVER, JOY               )  
11    BIBLES, DON LOCCHI AND                 )  
12    MELISSA PASTOR,                        )  
13    Individually and on behalf            ) CIVIL ACTION  
14    of all others similarly                )  
15    situated,                                ) NO.: 2:08-CV-422 TJW  
16    )  
17                   PLAINTIFFS,             )  
18    )  
19     VS.                                     )  
20    )  
21    )  
22     TYLER TECHNOLOGIES, INC.               )  
23     AND EDP ENTERPRISES, INC.,            )  
24    )  
25                   DEFENDANTS.            )

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ORAL DEPOSITION OF  
MELANIE BAIRD  
APRIL 26, 2010  
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ORAL DEPOSITION OF MELANIE BAIRD, produced as a witness at the instance of the DEFENDANTS, and duly sworn, was taken in the above-styled and numbered cause on the 26th day of April, 2010, from 1:22 p.m. to 4:30 p.m., before Elaine Fowler, CSR in and for the State of Texas, reported by machine shorthand, at the offices of Cathy Sosebee & Associates, 901 Mac Davis Lane, Lubbock, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 2

1 A P P E A R A N C E S

2

3 FOR THE PLAINTIFFS PATTY BEALL, MATTHEW MAXWELL, DAVID  
4 GRAVLEY, TALINA MCELHANY, KELLY HAMPTON, KEVIN TULLOS,  
5 CASEY BROWN, JASON BONNER, ANTHONY DODD, ILENE MEYERS,  
6 TOM O'HAYER, JOY BIBLES, DON LOCCHI AND MELISSA PASTOR,  
Individually and on behalf of all others similarly  
7 situated:

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10 (580) 248-4844

11 FOR THE DEFENDANTS TYLER TECHNOLOGIES, INC. AND EDP  
ENTERPRISES, INC.:

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 3

1	INDEX	
		PAGE
2	Appearances.....	2
3	MELANIE BAIRD	
4	EXAMINATION BY MS. KHOSRAVI.....	4
	EXAMINATION BY MS. HOLMES RAY:.....	141
5	EXAMINATION BY MS. KHOSRAVI.....	147
6		
	Reporter's Certificate.....	159

### EXHIBITS

8			
	NO.	DESCRIPTION	PAGE
9			
	1	3-9-06 Performance Review.....	41
10	2	Performance Review from 2006 to 2007.....	74
	3	Performance Review 2007 to 2008.....	97
11	4	Answers to interrogatories.....	117
	5	Resume.....	128
12	6	Consent to Opt In.....	136

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 17

1 support? What is the business of Tyler?

2 A. They design software for governments so they  
3 can operate.

4 Q. But the time you were employed as software  
5 support, the software that Tyler sold to the municipal  
6 government, those clients would then call you if they  
7 had questions about the software?

8 A. Questions or problems.

9 Q. And did I understand you that those problems or  
10 concerns would be communicated to you by the customer or  
11 the client making a telephone call to you?

12 A. They would call into a phone queue.

13 Q. And when you say phone queue, tell the jury  
14 what you mean by that.

15 A. Where they call in and their call is taken in  
16 the order it was received.

17 Q. So you never knew what call you were going to  
18 receive when you answered a telephone call?

19 A. That is correct.

20 Q. How long did you remain in the software support  
21 specialist position?

22 A. Approximately four years.

23 Q. When you first became employed by Tyler your  
24 starting salary was around \$28,000; is that right?

25 A. Yes.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 18

1 Q. But by the time you resigned in 2008 you had  
2 received several raises; is that right?

3 A. Yes.

4 Q. And your ending salary was about \$34,984 per  
5 year?

6 A. Something like that.

7 Q. As an implementation specialist, what was your  
8 job duty and responsibility?

9 A. As an implementation specialist I worked with  
10 the project managers to implement contracts.

11 Q. Tell me what that means, implementing  
12 contracts.

13 A. Okay. Marketing would sell the applications to  
14 the customer and then implementation, we -- project  
15 managers would, you know, work out the details with the  
16 customers and then we would configure the software into  
17 a conversion and then train them on the application.

18 Q. So as an implementation specialist, one of your  
19 jobs was to convert and configure; is that right?

20 A. I didn't work on the conversions as much as the  
21 trainers did.

22 Q. Did you ever work on conversions?

23 A. I would help them -- in a conversion, I would  
24 help them figure out what information needed to go in  
25 which field in the software. So, yes, I did work on

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 19

1 conversions.

2 Q. Good. You were starting to explain to me what  
3 conversions meant. That was my next question.

4 A. Yes. A conversion is where you take them from  
5 a software package they were using with another company  
6 and bring that information into our software.

7 Q. Give me an example, because I am trying to  
8 envision and understand what it is that you were doing.  
9 And I do not have a technical background.

10 A. Okay. Let's say that -- I am trying to think  
11 of what you might use.

12 Q. Give me an example of one of the projects you  
13 worked on.

14 A. Okay. Say you were using -- say you were using  
15 Lotus Notes for your email and you went to Outlook.

16 Q. Okay.

17 A. So it would be bringing those emails into the  
18 new program.

19 Q. And with you being involved in the conversion  
20 process, what specifically would be involved in taking  
21 my email in Lotus Notes over to Outlook?

22 A. That was where the programmers would come in.  
23 They would have to write programs to bring that  
24 information over. We just had to tell them where to put  
25 it.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 20

1 Q. So your role in the conversion process was  
2 where to put what?

3 A. Like we would have to, say, find the customer's  
4 name in this software and put it in this field in our  
5 software.

6 Q. And who would you give those directions to?

7 A. The project managers, and then they would  
8 communicate that with development.

9 Q. So if the subject of the mail was depositions,  
10 you would tell the project manager in Lotus Notes the  
11 subject field says depositions, in Outlook there is also  
12 a field called subject matter, so make sure that the  
13 name deposition is incorporated into this field. Am I  
14 understanding that correctly?

15 A. Yes.

16 Q. So you were involved in the conversion process  
17 in that way. And I think you also said configuration?

18 A. Yes.

19 Q. Help me understand what configuration means.

20 A. Say in like a utility billing software, when --  
21 before the customer can bill you how much water or gas  
22 or electric you use they have to send a meter reader out  
23 to read your meter to get readings.

24 Q. You mean the utility services to the customer?

25 A. Yes.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 21

1 Q. Okay.

2 A. And so the meter reader will have to go out and  
3 get a reading. And then they have a device that they  
4 type the reading in. And then we would have to  
5 configure based off of the software they used for that  
6 how to get that information into the INCODE software.  
7 So we have to say the meter number is here, the reading  
8 is here, the address is here.

9 Q. And when you say "here", you don't mean a hard  
10 copy document, you mean --

11 A. Right.

12 Q. -- a different software application?

13 A. Yes.

14 Q. Okay. Go on.

15 A. We would tell it, you know, the address is in  
16 field one, you know, for 10 characters, the name is in  
17 field 11 for five characters. We would have to, you  
18 know, configure our software to know how to recognize  
19 that information.

20 Q. And what steps did you take to configure? I am  
21 trying to understand that.

22 A. It would depend on which company they used for  
23 their meter reading, because they were all different.

24 Q. Give me an example of one that you can think  
25 of.

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**EXHIBIT 24**



## FREEDOM COURT REPORTING

Page 32

1 Q. They continued to use the old software and the  
2 new one that they purchased from Tyler?

3 A. No. The old software would be -- we would  
4 replace that software. This is other software they used  
5 in addition to.

6 Q. So, for example, if your client was switching  
7 from -- the example you gave earlier, switching from  
8 Lotus Notes to Outlook, it didn't mean that they were  
9 also switching from Microsoft Word to Word Perfect, you  
10 had to make sure that Microsoft Word was communicating  
11 with the new software, Outlook?

12 A. Yes.

13 Q. Am I following you?

14 A. Yes.

15 Q. So you trained them over the phone on  
16 interface (sic)?

17 A. Yes.

18 Q. How was your training in person that you did on  
19 clients' sites different from doing the training by  
20 phone?

21 A. You were hands-on with the customer. When you  
22 are on-site you could actually say, okay, you need to do  
23 this, this and this. When you are on the phone it is  
24 very hard to, you know, actually show them what they  
25 need to do.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 33

1 Q. So when you are on-site training a client you  
2 are actually sitting beside or near the user on their  
3 computer screen showing them?

4 A. Yes.

5 Q. And when you are doing it by phone, are you  
6 logged onto the client's computer to show them this? I  
7 am trying to envision how you actually trained when you  
8 are remote.

9 A. When we had the opportunity to do it, we would  
10 connect to their computers. Sometimes they would have  
11 IT stuff that would not let us do that.

12 Q. So when you were not able to remote in, how did  
13 you train them by phone?

14 A. I would actually have their screen pulled up on  
15 my screen and just say, you know, in the upper  
16 right-hand corner you see this, you know, if you look  
17 below that you see this and if you look to the left you  
18 see that, just guide them the best you could.

19 Q. What training did Tyler Technologies provide  
20 for you in the beginning when you first became an  
21 implementation specialist?

22 A. None.

23 Q. How did you know how to do your job as an  
24 implementation specialist when you first became one?

25 A. I learned as I went. They would give me a task

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 34

1 and I would just have to learn how to do it.

2 Q. So day one when you first became an  
3 implementation specialist, did somebody send you to a  
4 client site and say, Ms. Baird, go and train them on --  
5 name a software, I don't know, INCODE -- is that how it  
6 happened?

7 A. No.

8 Q. Okay. So what was done by Tyler to prepare you  
9 for your first trip out to a client's site to be able to  
10 train them?

11 A. I waited -- I didn't have any formal training.

12 Q. And I am not limiting my question to any formal  
13 training. Me, Farin Khosravi, sitting here today, I am  
14 trying to understand how you did your job as an  
15 implementation specialist with not having any  
16 background. So when you went in as an implementation  
17 specialist, did you already have an understanding of how  
18 INCODE functioned?

19 A. Functioned in which way?

20 Q. Functioned in any way. Were you familiar with  
21 INCODE from previous jobs, from previous training, from  
22 previous positions you had with the company?

23 A. I mean, I knew how the software worked from  
24 working in support.

25 Q. Let's go back to that then. Before you became

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 44

1 A. Exceptional knowledge of all aspects of the  
2 job.

3 Q. And then the next sentence is?

4 A. Considered an expert in the field.

5 Q. Why did you consider yourself to be an expert  
6 in the field?

7 A. I was trying to get a good raise.

8 Q. Any other reasons? Were you being truthful  
9 when you marked that?

10 A. Yes.

11 Q. Any other reasons besides trying to get a raise  
12 that you believed you were an expert in your field?

13 A. Well, I just always did a good job.

14 Q. And what did you consider doing a good job?  
15 You have said that several times, you did a good job.  
16 But what is it specifically that you did that you  
17 considered yourself doing a good job?

18 A. Well, I just always took care of the customer  
19 to the best of my abilities.

20 Q. Lets turn the page together to the second page  
21 of the performance review. Now, look with me under Item  
22 Number 3, which is problem solving, and under employee  
23 comments. Read me what you put down for problem solving  
24 under employee comment.

25 A. This one is difficult because this is done on a

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 45

1 customer by customer basis and is usually handled  
2 between the trainer and I. It usually pertains to the  
3 way routes are set up for customers and what the best  
4 way to set them up for them is.

5 Q. When you say it is usually handled between the  
6 trainer and I, help me understand. I thought you were  
7 the trainer who trained the customers. What did you  
8 mean by that sentence?

9 A. Well, I trained them on the interfaces. We had  
10 trainers that went on-site to train them on the modules.

11 Q. So you didn't train them on how to use Tyler's  
12 software, you only trained them on how to make two  
13 softwares communicate, correct?

14 MS. HOLMES RAY: Object to the form.

15 A. Correct.

16 Q. (BY MS. KHOSRAVI) And what do you mean by the  
17 second sentence, it usually pertains to the way routes  
18 are set up for customers?

19 A. Well, every customer was different.

20 Q. The routes are set up, what does that phrase  
21 mean?

22 A. Routes are like the order the meter readers  
23 would read the meters. Like every city is set up  
24 differently and they have different ways of doing  
25 things.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 46

1 Q. So you had to actually communicate with the  
2 client and find out how they set those up, correct?

3 A. Yes.

4 MS. HOLMES RAY: Objection, form.

5 Q. (BY MS. KHOSRAVI) And you would have to  
6 understand that from the client to then know how to  
7 assist them with their problems; is that right?

8 MS. HOLMES RAY: Object to the form.

9 Q. (BY MS. KHOSRAVI) You may answer the question.

10 A. Can you repeat that, please.

11 MS. KHOSRAVI: Would you read that back,  
12 please.

13 (The reporter read the last question.)

14 A. Correct. Can I ask what time it is?

15 MS. HOLMES RAY: 10 minutes after 2.

16 THE WITNESS: I have to notify my daughter  
17 if she has to ride the bus home or not. She gets out at  
18 3:15.

19 MS. HOLMES RAY: Off the record.

20 (Break taken from 2:11 p.m. to 2:14 p.m.)

21 Q. (BY MS. KHOSRAVI) Ms. Baird, before we took a  
22 quick break we were discussing your employee comments on  
23 your performance review with respect to problem solving.  
24 Do you remember that?

25 A. Yes.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 47

1 Q. And we were discussing your comment where it  
2 says it usually pertains to the way routes are set up  
3 for customers and what the best way to set them up for  
4 them is. Do you remember having put that down on your  
5 performance evaluation?

6 A. Yes.

7 Q. And was it you then that decided what the best  
8 way was to set up the routes for your customers?

9 A. I would make suggestions to the customers, but  
10 it was ultimately their decision how it was set up.

11 Q. And how do you decide what suggestions to make  
12 to your customers?

13 A. Just -- after doing it for so long you just  
14 learn it, you --

15 Q. So you determine what the best route would be  
16 provided under the comment?

17

18 MS. HOLMES RAY: Objection, form. You can  
19 answer.

20 A. Okay. I would just -- pretty much what I would  
21 do, I would say -- you know, I never knew how their old  
22 software worked, so I would say this is how our software  
23 works and this would be the easiest way for you to do  
24 it. But ultimately it was up to them how we set it up,  
25 the way they did their day-to-day work.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 48

1 Q. Now, I want you to go up two lines, again I am  
2 on problem solving, and tell me how you rated yourself.  
3 Do you see your own ranking under box that has got a  
4 capital E on top?

5 A. Yes. There is two of them marked there. I do  
6 not know why there is two of them marked there, so I  
7 don't know which one I actually picked.

8 Q. Why don't you read me the first one that has an  
9 employee checkmark next to it.

10 A. Consistently analyzes problems, recognizes and  
11 implements appropriate solutions, finds new and better  
12 ways to do things.

13 Q. Tell me what you meant by saying that you  
14 recommended and implemented appropriate solutions. Do  
15 you remember an example?

16 MS. HOLMES RAY: I am going to object to  
17 the form. You can answer.

18 A. Like an example would be -- like, say, they  
19 would tell me that they have like 10 routes and we -- I  
20 don't know what orders their meter readers would read  
21 in, but I would need to find out from them like what  
22 account numbers they wanted in each route. And then we  
23 would have different configurations that we could set up  
24 for them so they could make sure the right account  
25 numbers and right meters came up for the meter reader on

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**EXHIBIT 24**



## FREEDOM COURT REPORTING

Page 49

1     their devices.

2           Q.   Did you suggest to the city what configurations  
3     to use?

4           A.   I would give them options because they -- you  
5     know, it is the type of situation where you can't say  
6     you have to do it this way, because they had multiple  
7     options they could do. I would just tell them like what  
8     is the easiest way to do it versus the hardest way to do  
9     it. Then they could make a more informed decision that  
10    way.

11          Q.   And how did you know of these options that you  
12    were telling the clients they could use?

13          A.   What do you mean?

14          Q.   You said you would give them different options.  
15    I am trying to figure out how did you know what options  
16    were available.

17          A.   I would try to find out from them what --

18          Q.   From the client?

19          A.   Yes, from the client, what they needed. What  
20    do you need and then I would say, okay, here is your  
21    option based on their needs.

22          Q.   Now back to that same sentence. Did you  
23    consider yourself consistently analyzing problems?

24

25                   MS. HOLMES RAY: Object to the form. You

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 50

1 can answer.

2 A. Yes.

3 Q. (BY MS. KHOSRAVI) And tell me why it is that  
4 you considered yourself consistently analyzing problems.

5 A. Well, I mean, the job that I did was the same  
6 all the time. So I was -- you know, for every customer  
7 I would talk to, I would -- it would be consistently  
8 doing the same thing with them just based off of their  
9 different needs.

10 Q. And when you say doing the same thing, you mean  
11 analyzing their problems?

12 A. Yes.

13 Q. That is what you were referring to?

14 A. Yes.

15 Q. But as you said before, every customer was  
16 different, you had to tailor your suggestions to their  
17 needs, correct?

18 A. Right, but it was still the same process.

19 Q. The same process of what?

20 A. You know, you would still ask them the same  
21 questions; you would just have to figure out, you know,  
22 what -- how they did things differently than the other  
23 customers, then make the suggestions based on that.

24 Q. Let's turn the page, Ms. Baird. On the top of  
25 the third page of your performance review under employee

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 72

1 Q. So who became the contact for the trainers?

2 A. They continued to contact their project  
3 managers.

4 Q. I see. And you are testifying that the project  
5 managers did not have the knowledge and expertise that  
6 you did?

7 A. Yes.

8 MS. HOLMES RAY: Object to the form.

9 Q. (BY MS. KHOSRAVI) Would you read the next  
10 sentence for me, please.

11 A. "I would also like to take a class on Microsoft  
12 Front Page to learn it better."

13 Q. Tell me what Microsoft Front Page is.

14 A. That is a program for designing web pages.

15 Q. Why did you want to attend that class?

16 A. Because the InSite program, that would have  
17 been a way for me take more control of it, to do the  
18 set-up so I didn't have to wait on other people to do  
19 it.

20 Q. Did you make that suggestion to Dyke Ellison?

21 A. Yes.

22 Q. What did he think?

23 A. He said no.

24 Q. Did he tell you why?

25 A. No.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 73

1 Q. Would you read the next sentence for me,  
2 please.

3 A. "I would also like to be the person to build  
4 the site and purchase the SSL certificates and install  
5 them."

6 Q. These SSL certificates were the security bar  
7 codes you were telling me about?

8 A. No. That was the security software that  
9 encrypts your credit card when you make a purchase  
10 on-line.

11 Q. And remind me why you were suggesting that you  
12 would be the person who builds the site and purchases  
13 the certificate.

14 A. Because we had -- I had to wait on other  
15 departments to do all of that.

16 Q. In order to --

17 A. In order to do my configuration and my  
18 training.

19 Q. Did you make that suggestion to Dyke Ellison?

20 A. Yes.

21 Q. And that was declined, correct?

22 A. Yes.

23 Q. Did he explain to you why that was being  
24 declined?

25 A. No.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 74

1 Q. Did you ever ask or follow up?

2 A. Yes.

3 Q. And the result was?

4 A. He would just not respond.

5 Q. Look at the very last sentence in that  
6 paragraph starting with "Joe and Michael". Read that  
7 for me.

8 A. "Joe and are much better, but I would be able  
9 to do my job more efficiently if I could do these other  
10 parts."

11 Q. Who were you referring to when you said Joe and  
12 Michael?

13 A. Joe was the programmer and Michael was the IT  
14 person that -- they were the two people that I had to  
15 wait on in the other department to do their job before I  
16 could do mine.

17 Q. So they were Tyler employees?

18 A. Yes.

19 Q. Okay. If you will go ahead and put that aside  
20 for me. Now I am going to hand you another one.

21 (Exhibit 2 marked.)

22 Q. Ms. Baird, I am going to hand you what has been  
23 marked as Deposition Exhibit Number 2. Take a look at  
24 that and tell me if you recognize that document, please.

25 A. Yes.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 111

1 accounting functions for our regional office, but I also  
2 handled the billing and the payments when they came in.

3 Q. When you were being interviewed for a position  
4 with Tyler, during the interview process were you told  
5 that you were going to be receiving a salary and not  
6 overtime pay?

7 A. No.

8 Q. So when did you first become aware that you  
9 were not getting paid overtime pay for the hours worked  
10 over 40?

11 A. When I started working at Tyler and I asked if  
12 we got overtime pay and I was told no.

13 Q. And you realized that even if you worked 45  
14 hours you were still getting the same salary as if you  
15 worked 40 hours per week, right?

16 A. That was the way it was explained to me.

17 Q. But, in fact, was it reflected in your paycheck  
18 that the pay didn't change no matter how many hours you  
19 worked?

20 A. That is correct.

21 Q. And did your hours change as well? Were you  
22 working a set number of hours per week or were they  
23 different?

24 A. The hours that we were, you know, required to  
25 work was 8 to 5. But if you didn't complete something,

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 112

1 they would ask, you know, why didn't you stay over and  
2 do that.

3 Q. So your hours, depending on your work load,  
4 would change week to week, right?

5 A. Yes.

6 Q. It was possible one week you worked 40 and one  
7 week you worked 45, for example, correct?

8 A. Yes.

9 Q. And did you ever work less than 40 hours per  
10 week?

11 A. Only if I took like a day off in the middle of  
12 the week. But not when I worked five days, no.

13 Q. Did you ever make any complaints to anybody at  
14 Tyler about overtime pay?

15 A. I expressed my concerns to Dane Womble.

16 Q. Tell me what you told Dane Womble.

17 A. I just told him that, you know, I worked well  
18 over 40 hours a week and I felt I should have been  
19 compensated for that, and he said we don't do that.

20 Q. So when you said you felt like you should be  
21 compensated, you were referring to overtime pay?

22 A. Yes.

23 Q. What were the maximum number of hours that you  
24 worked in a given week?

25 A. Like any week?

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 113

1 Q. Yeah, on average I want to know the maximum  
2 number of hours that you worked.

3 A. Do you want a maximum or do you want an  
4 average?

5 Q. No. Give me a maximum that you ever worked in  
6 a given work, that you can remember.

7 A. The maximum that I can ever remember, I worked  
8 90 hours one week.

9 Q. What was the situation? Talk to me about that.

10 A. I was travelling and still doing all of my  
11 normal work. And it was a very -- we had a very large  
12 load that week -- or I had a very large load that week.  
13 And that is just what it took me to get the job done.

14 Q. When you say I was travelling and my normal  
15 work, why are you distinguishing between the normal -- I  
16 don't understand by normal work and then travelling.

17 A. That probably wasn't the best way to word that.  
18 Like I had all the interfacing and everything and then  
19 they added the Audiotel onto that. So I was not always  
20 in the office; I was also travelling and I was away from  
21 my desk. So I could not do the remainder of my work  
22 while I traveled because I would be at the customer  
23 site, you know -- I was giving them my attention and  
24 not --

25 Q. Instead of --

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**EXHIBIT 24**



## FREEDOM COURT REPORTING

Page 114

1           A. Right. Instead of everything else. I couldn't  
2 do all of it at once where I would be able to put more  
3 attention on more things while I was at my desk.

4           Q. So you mean while you were at a client's site  
5 you couldn't then assist other clients who were calling  
6 you on the phone asking you about another software?

7           A. Yes.

8           Q. Okay. So once you finished with the client's  
9 site that you were visiting, once you returned back to  
10 your desk you would contact that client, or how did that  
11 work? How did you then attend to that client who was  
12 trying to reach you?

13          A. I would call them back -- I would return all of  
14 my messages and emails and everything. I would just get  
15 to them, you know, in the order I received them or if  
16 there was something more pressing I would have to  
17 prioritize them.

18          Q. I am trying to figure out how it is that you  
19 were working 90 hours that week. What were the hours of  
20 your clients usually, their office hours? They were  
21 municipalities, correct?

22          A. They were usually 8 to 5.

23          Q. So then you were pretty much working 8 to 5?

24          A. I would work 8 to 5, but then I would also work  
25 in my hotel room afterwards.

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 115

1 Q. Okay. And what type of work were you doing at  
2 your hotel room afterwards?

3 A. I would answer emails. I would call in and get  
4 my voice mails. You can't call the customers back at  
5 that point, but I would send them emails. I would  
6 answer emails. I would contact project managers. We  
7 were in constant contact with project managers. So they  
8 were the ones that you had to go to for any project.  
9 Even if someone bought a software package after they had  
10 already gone live on the main system, the project  
11 manager was still in charge of that project. So I was  
12 always in contact with the project managers.

13 Q. When you say that you were constantly in  
14 contact with the project managers, tell me in what way.  
15 Because I am envisioning you being in constant contact  
16 with the clients who were calling you regarding issues  
17 and problems that they were having. Help me understand  
18 that.

19 A. Well, I was in contact -- the clients would  
20 call in with issues they were having when I was in  
21 support. When I was in implementation we were actually  
22 implementing programs. We were setting them up,  
23 training them how to use them and making them work. I  
24 didn't do as much support once I was in implementation.  
25 I still did some support. But the project managers are

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**EXHIBIT 24**

## FREEDOM COURT REPORTING

Page 116

1 the ones who we were in contact with when there would be  
2 -- arise a problem with a customer, because that was  
3 their customer.

4 Q. Okay. So you would be in contact with a  
5 project manager once a problem arose?

6 A. Yes.

7 Q. After you had set it up?

8 A. Right. And when I was travelling, you know, I  
9 didn't have access to my computer, to my physical  
10 computer at the office. So I would have to contact  
11 them, you know, we need to do this for this customer or  
12 we need to do that for that. And they would have to go  
13 over to my desk or get on my computer or something to  
14 try to find some of that information. So I had a lot of  
15 back and forth communication with the project managers..

16 Q. How many weeks during your employment with  
17 Tyler as an implementation specialist do you remember  
18 working 90 hours, the maximum that you testified?

19 A. 90 hours, I only remember working one, you  
20 know.

21 Q. Okay. Now, on average how many hours a week  
22 were you working?

23 A. An average -- I came up with about 60 hours  
24 average.

25 Q. And how did you come up with that number?

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**EXHIBIT 24**

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**119**

1           A. We only recorded the paid leave. We didn't  
2 record like what we worked every day throughout the  
3 week.

4           Q. That is fine. I want to get something  
5 clarified on the record. Earlier when I asked you about  
6 whether or not you ever recorded your time you said we  
7 only recorded our time when we took paid leave. Do you  
8 remember?

9           A. Yes.

10          Q. Now I want you to look at this answer and  
11 correct that testimony, if you need to, because here it  
12 says --

13                   MS. HOLMES RAY: Are you saying paid or  
14 unpaid?

15                   MS. KHOSRAVI: She said paid leave only.

16          Q. (BY MS. KHOSRAVI) So based on this answer  
17 where you said you submitted your time in an Epicor  
18 program for all travel and consulting hours that you  
19 worked, is it true then that you also recorded some of  
20 your time when you were travelling and consulting?

21          A. Some of it, but not all of it.

22          Q. Okay. Let's talk about that.

23          A. This was only -- this was time that was  
24 actually going to get billed to the customer at an  
25 hourly rate. This was not time that I entered in saying

**Freedom Court Reporting, Inc**

**120**

1     that I worked "X" number of hours a week.

2           Q.   So this was -- you were recording on Epicor  
3     your billable time to your clients only?

4           A.   Yes.

5           Q.   And the billable time to the client would have  
6     been what sort of work? Walk me through that.

7           A.   That is the time that it took to get to the  
8     customer site, the travel time, and the time I was  
9     on-site.

10          Q.   Okay.

11          A.   That was it for time.

12          Q.   And did you always record that type of time  
13     when it was being billed to the client?

14          A.   Only when it was being billed to the client.

15          Q.   And when did you know that time was being  
16     billed to the client in order to determine whether or  
17     not you needed to record it?

18          A.   When I would be told I was -- I am not saying  
19     that right. When they would tell me I needed to travel  
20     to a site; that was how I knew I would enter it in  
21     there. Because we also entered our travel expenses in  
22     this program.

23          Q.   So when you were not travelling to a client's  
24     site when you were doing your work out of the Tyler  
25     offices you were not recording your time?

**Freedom Court Reporting, Inc**

**121**

1           A.   No.

2           Q.   So the 60 hours on average that you testified  
3   earlier, you are estimating that that is how many hours  
4   per week that you worked?

5           A.   Yes.

6           Q.   Okay. What is the least amount of hours per  
7   week that you remember on average that you worked?

8           A.   Are you talking about also including like if  
9   you took a vacation day in the middle of the week or --

10          Q.   No. Forget vacation, just working. If you  
11   worked five days a week, you said on average you  
12   worked -- I am sorry. The maximum that you remember  
13   working in one week was 90 hours?

14          A.   Uh-huh.

15          Q.   Now go back and think what was the least number  
16   of hours you ever worked per week.

17          A.   The only time I ever took off early was if my  
18   child or I was sick or I just took a couple of hours  
19   off, but that was always paid leave. So I don't -- I  
20   don't know. There could have been a week I may have  
21   worked 35 hours, maybe.

22          Q.   And during the time period that you were  
23   working at Tyler from 2001 until around 2008, you had  
24   your daughter during that time?

25          A.   Uh-huh.

**Freedom Court Reporting, Inc**

**94**

1 letter is dated May 18, 2009 from Penny Parsons to you;  
2 is that right?

3 A. Correct.

4 Q. And in this first part of the letter it seems to say  
5 that the company has a concern because you were given  
6 two knowledge assessment tests, and based on those  
7 tests your knowledge of MUNIS is not adequate for the  
8 role of implementation consultant. Is that right?

9 A. That's what it says.

10 Q. Okay. Did anyone ever explain to you what they meant  
11 by your knowledge not being adequate for the role? In  
12 connection with this letter and in connection with this  
13 concern, did you have any verbal communications with  
14 Penny Parsons or Patty Smithey regarding --

15 A. It would have been Patty Smithey.

16 Q. Okay. Think back and tell me if you had any  
17 conversations with her about what she meant by your  
18 knowledge not being adequate.

19 A. Oh, absolutely. I would have asked her specifically,  
20 and I would have requested her assistance in improving.

21 Q. You said I would have, I would have. Did you?

22 A. I'm sure, yes, I did.

23 Q. Okay. So tell me what you remember. What was it that  
24 was going on that they said your knowledge was not  
25 adequate?

**Freedom Court Reporting, Inc**

**95**

1 A. I don't know.

2 Q. Okay. It says your knowledge of MUNIS is not adequate.

3 Was MUNIS this particular software that you were

4 training the clients on, the name of a software?

5 A. Yes.

6 Q. Do you remember taking two knowledge assessment tests?

7 A. No, not specifically. I only recall the one.

8 Q. Do you see that sentence where it says: As a result of

9 the second assessment test given to you today, meaning

10 May 18, 2009, we are concerned as you continue to be

11 unable to perform the implementation role at the

12 expected level. Do you see that sentence?

13 A. Correct.

14 Q. Does that help refresh your memory as to what test this

15 letter is referring to?

16 A. No.

17 Q. Do you have any reason to dispute that there was

18 actually two knowledge assessment tests given to you?

19 A. No.

20 Q. Okay. Let's look at the "Billability" part of this

21 letter.

22 A. Mm-hmm.

23 Q. Do you see a sentence there that says: The occasions

24 where you did have to train clients have not gone well.

25 Do you see that?



**Freedom Court Reporting, Inc**

**96**

1 A. I see it.

2 Q. And then it says: In 11 months you have been billable  
3 well below the monthly quota required and it is  
4 challenging at this point to find clients who are  
5 willing to work with you.

6 Do you see that?

7 A. I do.

8 Q. Can you tell me -- can you expand on that for me as to  
9 what this is referring to. What happened?

10 A. I don't agree with that sentence, so I can't expand on  
11 it.

12 Q. Did you discuss this with anybody to tell them, I don't  
13 agree with this?

14 A. Patty Smithey.

15 Q. Okay. So based on your discussion with her, why did  
16 you say you do not agree with this?

17 A. The billability, I mean it wasn't something I could  
18 control. I was --

19 Q. Because?

20 A. Because it's given to you by your project manager.  
21 It's given to you by the very sales process of MUNIS.

22 Q. You mean, when you say billability is not something I  
23 can control, it is because travel to the client site is  
24 assigned to you by a project manager?

25 A. Correct.

**Freedom Court Reporting, Inc**

**97**

1 Q. So you can't just get up and travel somewhere; correct?

2 A. And you can't just bill a client for something. It was  
3 all given to you by the project manager.

4 Q. So it seems they're saying they can't give you any  
5 billable work or send you to the clients because the  
6 occasions when you did train clients did not go well.  
7 Did you talk to them and see what they were talking  
8 about?

9 A. They never gave me specifics.

10 Q. You discussed it with them and they didn't --

11 A. Patty Smithey.

12 Q. Okay. Under Product Knowledge it's referring to a  
13 company called Crisp Co.

14 A. Crisp County.

15 Q. I'm sorry, Crisp County. And Patty Smithey seems to be  
16 saying that in preparation for some of your recent  
17 billable work, Patty spent hours with you making sure  
18 you were ready for the sessions at Crisp County, and  
19 that you were unable to complete the session without  
20 extensive help from the support department.

21 Do you remember the incident at Crisp County?

22 A. No.

23 Q. Do you remember you going to Crisp County?

24 A. Yes.

25 Q. Do you remember anything that would have led to this

**Freedom Court Reporting, Inc**

**54**

1 A. Typically.

2 Q. Why do you say typically?

3 A. I -- I wouldn't say -- I mean that was the time frame,  
4 8 to 5.

5 Q. 8 to 5 is when you were expected to be at the office  
6 during that time period; correct?

7 A. Correct. Correct.

8 Q. Was there any reason to stay at the office beyond 5:00  
9 during that initial period when you were training  
10 yourself?

11 A. No.

12 MS. KHOSRAVI: Good point, Lauren.

13 BY MS. KHOSRAVI:

14 Q. Ms. Milburn, if you were ever sent to a client site,  
15 did you typically fill out an expense report for the  
16 expenses that you incurred during your trip to a client  
17 site?

18 A. Yes.

19 Q. Was there ever a time that you went to a client site  
20 and you did not incur any expenses that Tyler  
21 Technologies needed to reimburse you for?

22 A. No.

23 MS. KHOSRAVI: Okay. Let's mark this.

24 DEPOSITION EXHIBIT 3

25 MARKED BY THE REPORTER

**Freedom Court Reporting, Inc**

**55**

1 FOR IDENTIFICATION

2 BY MS. KHOSRAVI:

3 Q. While you were employed at Tyler Technologies,  
4 Ms. Milburn, did you record your time?

5 A. No.

6 Q. You never recorded your time while you were working for  
7 Tyler Technologies?

8 MS. BAGLEY: Form; asked and answered.

9 BY MS. KHOSRAVI:

10 Q. You're hesitating to answer. Tell me, is there --

11 A. I'm trying to remember if -- if this was a prior  
12 company I worked with or this was Tyler, whether I had  
13 to go on-line and submit a time sheet. I think it was  
14 exception-based. You only had to submit time.

15 Q. Are we talking about Tyler now or your previous  
16 employer?

17 A. That's what I'm trying to remember.

18 Q. Ah.

19 How did you keep track of how many hours you  
20 worked while you were employed at Tyler Technologies?

21 MS. BAGLEY: Form.

22 A. I didn't. Well, I mean I don't understand. What do  
23 you mean how did I keep track? I --

24 BY MS. KHOSRAVI:

25 Q. How did Tyler Technologies know how to bill its clients

**Freedom Court Reporting, Inc**

**56**

1 with respect to the time you spent on a client project?

2 A. It was all handled. It was not in my control at all.

3 Project manager was responsible for that.

4 Q. If you were at the client site for ten hours one day,

5 let's say, were you supposed to record that: I spent

6 at a client site ten hours today doing X, Y and Z?

7 Were you hired or supposed to record that time

8 anywhere?

9 A. Yes, we did trip reports. So we would list the time we

10 got there and the time we left. However, I -- I think,

11 you know, as far as what the client was paying was

12 handled differently.

13 Q. And I don't care what the client was paying. I care

14 about how -- was your time ever billed to the client?

15 Do you know whether your time was ever billed to the

16 client?

17 A. My time was billed.

18 Q. So if you did not record your time -- help me

19 understand this.

20 A. I did record it on the trip report.

21 Q. Trip report. And tell me what a trip report is again.

22 A. It was a daily report that you would -- you'd have to

23 have signed off by the client on what you covered.

24 Q. And did the trip report say: Ms. Milburn was at my

25 offices from, let's say, 8:00 in the morning until 4:00

**Freedom Court Reporting, Inc**

**57**

1 in the afternoon? Is that what a trip report  
2 contained?

3 A. It had the time in, the time out, and the events of the  
4 day, and a signature by myself and the client.

5 Q. Would you have the client fill that out once you were  
6 leaving the client site?

7 A. We had to get the client to sign off on it.

8 Q. You said we. Who's we?

9 A. Well, implementation consultants is we. I had to have  
10 the client sign it.

11 Q. When you say we had to get that done, you were speaking  
12 for all the implementation consultants?

13 A. Yes.

14 Q. And how do you know that all the implementation  
15 consultants were supposed to do that?

16 A. I don't.

17 Q. Okay. So let's make sure --

18 A. I just know that Joy did and Laura did. So people  
19 around me did, but I don't know.

20 Q. The implementation consultants that actually worked  
21 with you on the same projects?

22 A. Correct.

23 Q. I see. Now I want to know about your practice,  
24 Ms. Milburn. I want to know about you specifically.

25 When you left the client site, did you actually give

**Freedom Court Reporting, Inc**

**94**

1 letter is dated May 18, 2009 from Penny Parsons to you;  
2 is that right?

3 A. Correct.

4 Q. And in this first part of the letter it seems to say  
5 that the company has a concern because you were given  
6 two knowledge assessment tests, and based on those  
7 tests your knowledge of MUNIS is not adequate for the  
8 role of implementation consultant. Is that right?

9 A. That's what it says.

10 Q. Okay. Did anyone ever explain to you what they meant  
11 by your knowledge not being adequate for the role? In  
12 connection with this letter and in connection with this  
13 concern, did you have any verbal communications with  
14 Penny Parsons or Patty Smithey regarding --

15 A. It would have been Patty Smithey.

16 Q. Okay. Think back and tell me if you had any  
17 conversations with her about what she meant by your  
18 knowledge not being adequate.

19 A. Oh, absolutely. I would have asked her specifically,  
20 and I would have requested her assistance in improving.

21 Q. You said I would have, I would have. Did you?

22 A. I'm sure, yes, I did.

23 Q. Okay. So tell me what you remember. What was it that  
24 was going on that they said your knowledge was not  
25 adequate?

**Freedom Court Reporting, Inc**

**95**

1       A.     I don't know.

2       Q.     Okay. It says your knowledge of MUNIS is not adequate.

3             Was MUNIS this particular software that you were

4             training the clients on, the name of a software?

5       A.     Yes.

6       Q.     Do you remember taking two knowledge assessment tests?

7       A.     No, not specifically. I only recall the one.

8       Q.     Do you see that sentence where it says: As a result of

9             the second assessment test given to you today, meaning

10            May 18, 2009, we are concerned as you continue to be

11            unable to perform the implementation role at the

12            expected level. Do you see that sentence?

13      A.     Correct.

14      Q.     Does that help refresh your memory as to what test this

15            letter is referring to?

16      A.     No.

17      Q.     Do you have any reason to dispute that there was

18            actually two knowledge assessment tests given to you?

19      A.     No.

20      Q.     Okay. Let's look at the "Billability" part of this

21            letter.

22      A.     Mm-hmm.

23      Q.     Do you see a sentence there that says: The occasions

24            where you did have to train clients have not gone well.

25            Do you see that?



**Freedom Court Reporting, Inc**

**96**

1 A. I see it.

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3 well below the monthly quota required and it is  
4 challenging at this point to find clients who are  
5 willing to work with you.

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9 what this is referring to. What happened?

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**Freedom Court Reporting, Inc**

**97**

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17 billable work, Patty spent hours with you making sure  
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